

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10374 of 2004

Between:

1. Hima Chit Funds (P) Ltd., rep by its Foreman Mr. A. Veera Reddy,
having its Registered Office, at 6-828, First Floor, Raganna Darwaza,
Hanumakonda, Warangal District- 500 011
- 2 Tulasi Krishna Chits Funds (P) Ltd., rep by its Foreman,
Mr. M. Gangadhara Chary, having its registere
Office at 6-2-101, Vaddiraj Complex,
Chowrasta, Hanumakonda, Warangal .

.....PETITIONERS.

AND

1. The Director of Chits and Inspector General, of Registration and
Stamps, A.P., Hyderabad .
- 2 The Regional Vigilance and Enforcement Officer, Warangal
- 3 The Registrar of Chits (Urban), Warangal

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the Letter in Rc. No. 543/V&E/Warangal/2003 dated 31-10-2003 of the Respondent No.2 and Consequential letter No. CF/54/2003 dated 14-11-2003 of the Respondent No.3 as illegal arbitrary and colourable exercise of the power and against the Articles 19(1)(g) of the Constitution of India and set a side the same

Counsel for the Petitioner:MR.G.DHANANJAI

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioners challenge the proceedings dated 31-10-2003 issued by the 2nd respondent and the consequent letter dated 14-11-2003 issued by the 3rd respondent.

2. The petitioners are Chit Fund Companies having place of business in Warangal City. The 2nd respondent is the Regional Vigilance and Enforcement Officer, Warangal. He issued proceedings dated 31-10-2003 to the 3rd respondent-Registrar of Chits, Warangal. It has been pointed out that a stamp duty of Re.1/- is payable on every transaction exceeding Rs.500/- and that the Chit Fund Companies in the Warangal City are issuing cash receipts for payment of monthly installments exceeding Rs.500/- without affixing revenue stamp of Re.1/-. It was alleged that they have violated Article 53 of Schedule-I of Indian Stamp Act. On the basis of information furnished by the 3rd respondent, the 2nd respondent took the view that the 61 branches of Chit Fund Companies are liable to pay a sum of Rs.10,72,140/- and he directed the 3rd respondent to take necessary steps to recover the amount. Acting on the same, the 3rd respondent issued letters dated 14-11-2003 to the petitioners requiring them to remit the various amounts indicating against their names.

3. Petitioners contend that no verification was undertaken, muchless, show cause notices were issued to them and on the basis of unilateral determination, amounts are sought to be recovered from them.

4. The 3rd respondent filed counter affidavit. Except stating that he has issued the

impugned letters on the directions issued by the 2nd respondent, he has not stated as to whether any inspection was undertaken or notices were issued.

5. The 3rd respondent filed counter affidavit. Except stating that he has issued the impugned letters on the directions issued by the 2nd respondent, he has not stated as to whether any inspection was undertaken or notices were issued.

6. Heard the learned counsel for the petitioners and the Government Pleader for Revenue.

7. The letters addressed by the 3rd respondent on 14-11-2003 to the petitioners are on the basis of instructions given to him by the 2nd respondent in his proceedings dated 31-10-2003. The 2nd respondent has arrived at a conclusion that 61 branches of the Chit Fund Companies in the Warangal City have committed default in not affixing revenue stamp of Re.1/- on each of cash receipts while collecting the monthly instalments exceeding

Rs.500/-. It was obligatory on his part to give an opportunity to the affected persons before arriving at such a conclusion. None of the impugned proceedings disclose that the petitioners or other chit fund companies have been given an opportunity to explain as to whether they have complied with Article 53 of Schedule-I of Indian Stamp Act and if there is any default, the justification therefore. It is impermissible in law to presume that any individual or agency has violated the provisions of any statute, unless the necessary verification has been undertaken, duly giving an opportunity to the affected persons. Admittedly, the petitioners were not given an opportunity in the matter of verification as to whether they have complied with the said provision. The same amounts to violation of principles of natural justice. On this ground alone, the impugned letters as well as the proceedings are set aside, leaving it open to the respondents to make necessary demands after undertaking proper verification from the affected parties.

8. The writ petition is accordingly allowed. No costs.

N.V.RAMANA, J.

24th June, 2004.

Chvn.

To

1. The Director of Chits and Inspector General, of Registration and Stamps, A.P., Hyderabad .
- 2 The Regional Vigilance and Enforcement Officer, Warangal
- 3 The Registrar of Chits (Urban), Warangal
4. Two C.Cs. to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
5. Two C.D.copies.